

# **Exhibit 1**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

DUTCHESS COUNTY  
CLERK'S OFFICE  
RECEIVED

2016 SEP 29 AM 11:52

-----X  
ANNA WORTZBURGER,

Plaintiff/Petitioner,

- against -

KENTUCKY FRIED CHICKEN,

Defendant/Respondent.  
-----X

Index No. 2016 2125

**NOTICE OF OPT-OUT FROM PARTICIPATION  
IN ACTION SUBJECT TO MANDATORY ELECTRONIC FILING**

Pursuant to Section 202.5-bb of the Uniform Rules for the Trial Courts, I hereby opt out of participation in electronic filing in this mandatory e-filed case.

For Attorneys:

I certify in good faith that I am unable to participate in mandatory electronic filing of documents in this case on behalf of my client, ANNA WORTZBURGER, because [place your initials in the applicable space]:

\_\_\_\_\_ I lack [check off the applicable box]:

☐ the necessary computer hardware

☐ a connection to the internet

☐ a scanner or other device by which documents may be converted to an electronic format

✓ I lack the knowledge regarding operation of computers and/or scanners needed to participate in electronic filing of documents in this case and no employee of mine or of my firm, office or business who is subject to my direction possesses such knowledge.

For Self-Represented Litigants:

I choose not to participate in electronic filing of documents in this case.

Dated: September 29, 2016

Paula J. Gabiger (Signature)

PAMELA J. GABIGER (Name)

\_\_\_\_\_  
(Firm Name)

PO Box 3455 (Address)

DOUGHERTYVILLE NY 12603

(845) 471-2497 (Phone)

09/29/2016 12:58PM FAX 8552252855+

WINDHAM

00002/0003

DUTCHESS COUNTY  
CLERK'S OFFICE  
RECEIVED

COUNTY CLERK, DUTCHESS COUNTY

Application for INDEX NUMBER pursuant to C.P.L.R. Section 8018

INDEX NUMBER **2016** 2125

FEE - \$210.00

2016 SEP 29 AM 11:52

Spaces below to be TYPED or PRINTED by applicant

TITLE OF ACTION OR PROCEEDING

STATE OF NEW YORK

SUPREME COURT COUNTY OF DUTCHESS

CHECK AS APPLICABLE

ANNA WURTZBURGER,

Plaintiff,

CONSUMER CREDIT  
TRANSACTION

-against-

NOT CONSUMER  
CREDIT  
TRANSACTION

KENTUCKY FRIED CHICKEN,

Defendant.

NON PAYMENT  
OF CONTRACTUAL  
OBLIGATION

Name and Address of  
Attorney for Plaintiff(s)  
Or Petitioner  
Telephone No.:

PAMELA J. GABIGER  
P.O. Box 3455  
Poughkeepsie, New York 12603  
(845) 471-2447

Name and address of  
Attorney for Defendant  
Or Respondent  
Telephone No.

A. Nature and object of action: FALSE/DECEPTIVE ADVERTISING, DECEPTIVE  
TRADE PRACTICE

Or

Nature of special proceeding:

IS THIS ACTION OR PROCEEDING CONFIDENTIAL UNDER ANY LAW OF THE STATE  
OF NEW YORK?

YES

NO

B. Application for Index Number filed by:

Plaintiff

Defendant

SEPTEMBER 28, 2016  
DATE

SIGNATURE

*[Handwritten signature of Pamela J. Gabiger]*

DUTCHESS COUNTY  
CLERK'S OFFICE  
RECEIVED

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS  
2016 SEP 29 AM 11:52

ANNA WURTZBURGER,

Plaintiff,

-against-

KENTUCKY FRIED CHICKEN,

Defendant.

Index No.:

2016 2125

Date Summons Filed:

Plaintiff designates

Dutchess

County as the place of  
trial

*The basis of venue is:*

Plaintiff's residence

**SUMMONS**

Plaintiff

resides at 48 Hemlock Drive  
Hopewell Junction, NY  
12533

*To the above named Defendant:*

**YOU ARE HEREBY SUMMONED** to answer the complaint in this action and to serve a copy of your answer on the *Plaintiff's Attorney* within twenty (20) days after the service of this summons, exclusive of the day of service, where service is made by delivery upon you personally within the state, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: SEPTEMBER 29, 2016

PAMELA J. GABIGER

Attorney for Plaintiff

P.O. Box 3455

Poughkeepsie, New York 12603

(845) 471-2447

DUTCHESS COUNTY  
CLERK'S OFFICE  
RECEIVED

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF DUTCHESS

2016 SEP 29 AM 11:52

-----  
ANNA WURTZBURGER,

Plaintiff,

COMPLAINT

-against-

Index No.: **2016** 2125

KENTUCKY FRIED CHICKEN,

Defendant.

-----  
Plaintiff, through attorney, PAMELA GABIGER, complaining of  
defendant, states:

1. At all times hereinafter mentioned, plaintiff was a resident of  
Hopewell Junction, County of Dutchess, State of New York.
2. At all times hereinafter mentioned, defendant was and still is a  
domestic corporation duly organized and existing under the laws  
of the state of New York with its principal place of business at  
Route 82 and Route 376, Hopewell Junction, County of Dutchess,  
State of New York.

3. That on or about July, 2016, plaintiff purchased an eight piece bucket of chicken from defendant.
4. Defendant sold to plaintiff the aforementioned product pursuant to the terms and conditions contained therein.
5. That on or about July, 2016 the full purchase price of the sum of Twenty and no/100 \$20.00 Dollars was paid by the plaintiff to the defendant.
6. That the merchandise given from defendant to the plaintiff was given to plaintiff in a carton bucket.
7. That the nationally well-known producer of chicken is (Kentucky Fried Chicken) whose company produces chicken with trade name Kentucky Fried Chicken.
8. That upon information and belief, defendant delivered to plaintiff merchandise which was misleading and constituted a false and deceptive trade practice in that the advertisement on television showed a bucket overflowing with chicken and when plaintiff

received the bucket of chicken there were only eight pieces of chicken in it.

9. That defendant's conduct constitutes a violation of the applicable sections of the general business law of the State of New York pertaining to false advertising and misleading trade practices.
10. Plaintiff thereafter spoke with a representative of defendant in Georgia who stated that defendant intentionally showed the false, deceptive advertisement of an overflowing bucket of chicken on a television commercial so that the public could see the chicken.
11. Defendant therefore was aware that defendant was intentionally misleading and deceiving the public when it advertised an overflowing bucket of chicken on television but knew that they would only sell 8 pieces of chicken to the public and to plaintiff.
12. The act or practice of defendant was consumer oriented.

13. The act or practice of defendant was misleading in a material respect.
14. Plaintiff was injured as a result of the deceptive act or practice.
15. The act or practice affected the public consumer.
16. That as a result of the actions of defendant, plaintiff has suffered damages in the sum of Twenty Million and no/100 (\$20,000,000.00) Dollars.
17. By reason of the false advertising and deceptive trade practices of the defendant plaintiff has been damaged in an amount to be awarded by a jury in the trial of this action.
18. WHEREFORE, plaintiff demands judgment against defendant in the sum of Twenty Million and no/100 (\$20,000.00) Dollars, an amount to be awarded by a jury upon the trial of this action



pursuant to CPLR 3017 together with interest, costs and  
disbursements of this action and for such other and further relief  
as to this Court may seem just and proper.

Dated: September 28, 2016

  
PAMELA GABIGER

Attorney for Plaintiff

P.O. Box 3455, Poughkeepsie, NY  
12603  
(845) 471-2447